

**U.S. District Court  
Southern District of Florida (Miami)  
CIVIL DOCKET FOR CASE #: 1:09-cv-23140-MGC**

Gustin v. Insua et al  
Assigned to: Judge Marcia G. Cooke  
Cause: 28:1983 Civil Rights

Date Filed: 10/19/2009  
Jury Demand: Plaintiff  
Nature of Suit: 550 Prisoner: Civil  
Rights  
Jurisdiction: Federal Question

**Plaintiff****Patrick Gustin**

represented by **Patrick Gustin**  
DC #L73068  
Florida State Prison  
7819 N.W. 228th Street  
Raiford, FL 32026  
PRO SE

V.

**Defendant****Officer Insua**

represented by **Insua**  
Dade Correctional Institution  
19000 S.W. 377th Street  
Florida City, FL 33034-6499  
PRO SE

**Defendant****Officer Hoyte**

represented by **Hoyte**  
Dade Correctional Institution  
19000 S.W. 377 Street  
Florida City, FL 33034-6499  
PRO SE

**Defendant****Officer Cotto**

represented by **Cotto**  
Dade Correctional Institution  
19000 S.W. 377 Street  
Florida City, FL 33034-6499  
PRO SE

Date Filed	#	Docket Text
10/19/2009	<u>1</u>	Civil COMPLAINT under 42 USC 1983 against Cotto, Hoyte, Insua., filed by Patrick Gustin.(lbc) Modified event on 8/27/2010 (yc). (Entered: 10/19/2009)
10/19/2009	<u>2</u>	MOTION for Leave to Proceed in forma pauperis by Patrick Gustin. (lbc)

		(Entered: 10/19/2009)
10/19/2009	<u>3</u>	Clerks Notice Referring Case to Magistrate White (lbc) (Entered: 10/19/2009)
11/02/2009	<u>4</u>	ORDER OF INSTRUCTIONS TO PRO SE CIVIL RIGHTS LITIGANTS. Signed by Magistrate Judge Patrick A. White on 11/2/2009. (br) (Entered: 11/02/2009)
11/02/2009	<u>5</u>	ORDER Permitting Plaintiff to Proceed without Prepayment of Filing Fee but Establishing Debt of \$350.00; granting <u>2</u> Motion for Leave to Proceed in forma pauperis to the extent that the plaintiff need not prepay even a partial filing fee in this case, or to prepay costs such as for service of process. Signed by Magistrate Judge Patrick A. White on 11/2/2009. (br) (Entered: 11/02/2009)
11/19/2009	<u>6</u>	ORDER RE SERVICE OF PROCESS REQUIRING PERSONAL SERVICE UPON AND INDIVIDUAL. the United States Marshal shall serve a copy of the complaint and appropriate summons upon: Officer Insua, Corrections Officer, Dade Correctional Institution, 19000 S.W. 377 Street, Florida City, FL 33034; Officer Hoyte, Correctional Officer, Dade Correctional Institution, 19000 S.W. 377 Street Florida City, FL 33034 and Officer Cotto, Correctional Officer, Dade Correctional Institution, 19000 S.W. 377 Street, Florida City, FL 33034. Signed by Magistrate Judge Patrick A. White on 11/18/2009. (tw) (Entered: 11/19/2009)
11/24/2009	<u>7</u>	Summons Issued as to Cotto. (br) (Entered: 11/24/2009)
11/24/2009	<u>8</u>	Summons Issued as to Hoyte. (br) (Entered: 11/24/2009)
11/24/2009	<u>9</u>	Summons Issued as to Insua. (br) (Entered: 11/24/2009)
01/06/2010	<u>10</u>	SUMMONS (Affidavit) Returned Executed by Patrick Gustin. Insua served on 12/24/2009, answer due 1/14/2010. (lbc) (Entered: 01/06/2010)
01/06/2010	<u>11</u>	SUMMONS (Affidavit) Returned Executed by Patrick Gustin. Hoyte served on 12/24/2009, answer due 1/14/2010. (lbc) (Entered: 01/06/2010)
01/06/2010	<u>12</u>	SUMMONS (Affidavit) Returned Executed by Patrick Gustin. Cotto served on 12/24/2009, answer due 1/14/2010. (lbc) (Entered: 01/06/2010)
01/14/2010	<u>13</u>	ANSWER and Affirmative Defense of Officer Insua by Insua.(asl) (Entered: 01/14/2010)
01/15/2010	<u>14</u>	ANSWER and Affirmative Defenses to Complaint by Hoyte. (system updated) (lbc) (Entered: 01/15/2010)
01/20/2010	<u>15</u>	ANSWER and Affirmative Defense to Complaint by Cotto.(asl) (Entered: 01/21/2010)
01/22/2010	<u>16</u>	SCHEDULING ORDER: Pretrial proceedings when plaintiff is proceeding pro se. Amended Pleadings due by 5/17/2010. Discovery due by 5/3/2010. Joinder of Parties due by 5/17/2010. Motions due by 6/7/2010.. Signed by Magistrate Judge Patrick A. White on 1/21/2010. (tw) (Entered: 01/22/2010)
02/24/2010	<u>17</u>	MOTION to Amend <u>1</u> Complaint by Patrick Gustin. Responses due by 3/15/2010 (asl) (Entered: 02/25/2010)

02/24/2010	<u>18</u>	AMENDED COMPLAINT/ Civil Complaint Under 42 U.S.C. 1983, filed by Patrick Gustin.(asl) (Entered: 02/25/2010)
03/01/2010	<u>19</u>	NOTICE of Filing Discovery: First Request for Production of Documents by Patrick Gustin.(asl) (Entered: 03/01/2010)
03/03/2010	<u>20</u>	ORDER OF MAGISTRATE JUDGE denying without prejudice <u>17</u> Motion to Amend/Correct. Signed by Magistrate Judge Patrick A. White on 3/3/2010. (tw) (Entered: 03/03/2010)
03/15/2010	<u>21</u>	AMENDED COMPLAINT, filed by Patrick Gustin.(lbc) (Entered: 03/16/2010)
03/18/2010	<u>22</u>	ORDER OF MAGISTRATE JUDGE that the second amended complaint (DE#21), alleging that the violation took place on July 31, 2008, shall be part of the operative complaint. Signed by Magistrate Judge Patrick A. White on 3/18/2010. (tw) (Entered: 03/18/2010)
04/12/2010	<u>23</u>	NOTICE of Interrogatories upon written answer by Patrick Gustin (ail) (Entered: 04/13/2010)
04/12/2010	<u>24</u>	NOTICE of Filing Discovery: First Set of Interrogatories by Patrick Gustin. (ail) (Entered: 04/13/2010)
04/12/2010	<u>25</u>	NOTICE of Request for Admissions by Patrick Gustin (ail) (Entered: 04/13/2010)
04/12/2010	<u>26</u>	NOTICE of Interrogatories upon written answers by Patrick Gustin (ail) (Entered: 04/13/2010)
04/12/2010	<u>27</u>	NOTICE of Request for Admissions by Patrick Gustin (ail) (Entered: 04/13/2010)
04/14/2010	<u>28</u>	ANSWER and Affirmative Defenses to Amended Complaint by Insua.(lbc) (Entered: 04/14/2010)
04/20/2010	<u>29</u>	NOTICE of Inquiry by Patrick Gustin (ail) (Entered: 04/21/2010)
04/20/2010	<u>30</u>	MOTION for Extension of Time to File Discovery, Motions, Pretrial Statement etc. by Patrick Gustin. (ail) (Entered: 04/21/2010)
04/22/2010	<u>31</u>	ORDER granting <u>30</u> plaintiff's Motion for Extension of Time; all dates entered in the pre-trial scheduling order are extended for thirty days from the dates IN THAT ORDER. This is a paperless order.. Signed by Magistrate Judge Patrick A. White on 4/22/2010. (cz) (Entered: 04/22/2010)
05/20/2010	<u>32</u>	MOTION to Compel <i>Service Address</i> by Patrick Gustin. Responses due by 6/7/2010 (ail) (Entered: 05/21/2010)
05/20/2010	<u>33</u>	NOTICE of Plaintiff's First Set of Interrogatories to Defendant by Patrick Gustin (ail) (Entered: 05/21/2010)
05/20/2010	<u>34</u>	NOTICE of Interrogatories upon written questions by Patrick Gustin (ail) (Entered: 05/21/2010)
05/20/2010	<u>35</u>	NOTICE of Request for Admission by Patrick Gustin (ail) (Entered: 05/21/2010)

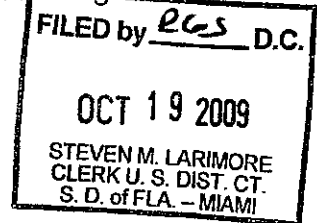
		05/21/2010)
05/20/2010	<u>36</u>	NOTICE of Request for Admissions by Patrick Gustin (ail) (Entered: 05/21/2010)
05/25/2010	<u>37</u>	NOTICE of Plaintiff's First Request for Production of Documents by Patrick Gustin (ail) (Entered: 05/26/2010)
05/28/2010	<u>38</u>	ORDER dismissing <u>32</u> Motion to Compel, all discovery requests must go directly to the parties. This is a paperless order.. Signed by Magistrate Judge Patrick A. White on 5/28/2010. (cz) (Entered: 05/28/2010)
06/14/2010	<u>39</u>	MOTION to Appoint Counsel by Patrick Gustin. Responses due by 7/1/2010 (ail) (Entered: 06/15/2010)
06/18/2010	<u>40</u>	ORDER denying <u>39</u> Motion to Appoint Counsel. Signed by Magistrate Judge Patrick A. White on 6/18/2010. (cz) (Entered: 06/18/2010)
08/26/2010	<u>41</u>	REPORT AND RECOMMENDATIONS on 42 USC 1983 case re <u>1</u> Complaint filed by Patrick Gustin. Recommending that this case be placed on the trial calendar of the District Judge. Objections to R&R due by 9/13/2010. Signed by Magistrate Judge Patrick A. White on 8/26/2010. (tw) (Entered: 08/26/2010)
09/27/2010	<u>42</u>	MOTION to Compel <i>Pre-trial Disclosure</i> by Patrick Gustin. Responses due by 10/14/2010 (tb) (Entered: 09/28/2010)
10/08/2010	<u>43</u>	ORDER TO SHOW CAUSE Show Cause Response due by 10/29/2010.. Signed by Judge Marcia G. Cooke on 10/8/2010. (tm) (Entered: 10/08/2010)
10/25/2010	<u>44</u>	RESPONSE TO ORDER TO SHOW CAUSE by Patrick Gustin. (ebs) (Entered: 10/25/2010)
10/28/2010	<u>45</u>	RESPONSE TO ORDER TO SHOW CAUSE by Patrick Gustin. (ebs) (Entered: 10/28/2010)

<b>PACER Service Center</b>			
<b>Transaction Receipt</b>			
04/08/2011 10:34:17			
<b>PACER Login:</b>	vl0006	<b>Client Code:</b>	
<b>Description:</b>	Docket Report	<b>Search Criteria:</b>	1:09-cv-23140-MGC
<b>Billable Pages:</b>	2	<b>Cost:</b>	0.16

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA**

**Case No. 09-23140**

**The attached hand-written  
document  
has been scanned and is  
also available in the  
SUPPLEMENTAL  
PAPER FILE**



United States District Court  
Southern District of Florida

Miami Division

Case no. 09-23140

Patrick Gustin,  
Plaintiff,

CIV - COOKE

MAGISTRATE JUDGE  
WHITE

v.

Officer Insua,  
Officer Hoyte,  
Officer Cotto,  
Defendants.

PROVIDED TO  
FLORIDA STATE PRISON  
DATE 10/13/09 FOR MAILING.  
INMATES INITIALS P.G.  
OFFICER MAY WEATHER

Civil Complaint Under 42 U.S.C. § 1983

Parties:

1). Plaintiff: Patrick Gustin # L73068, Florida State Prison, 7819 n.w. 228 st., Raiford, FL 32026.

2). Defendant: Officer Insua, Correctional Officer, Dade Correctional Institution, 19000 SW 377<sup>th</sup> St., Florida City, FL 33034.

3). Defendant: Officer Hoyte, Correctional Officer, Dade Correctional Institution, 19000 SW 377<sup>th</sup> St., Florida City, FL 33034.

cat/div 550/1983/min  
Case # 09CV23140  
Judge Cooke Mag PAW  
Motn lfp YES Fee pd \$ -6  
Receipt # \_\_\_\_\_

1. of 4.

4). Defendant: Officer Cotto, Correctional officer, Dade Correctional Institution, 19000 SW 377th St., Florida City, FL 33034.

5). At all times relevant to this complaint, the defendants acted under color of state law.

6). Plaintiff sues defendants in their individual capacity.

### Statement of Facts:

7). On 8/31/08, Plaintiff Patrick Gustin was an inmate at Dade Correctional Institution (DCI) in Florida City, FL.

8). On 8/31/08, defendants Insua, Hoyte and Cotto were employed as correctional officers at DCI.

9). On 8/31/08 at approximately 10:30 a.m., Insua, Hoyte and Cotto were escorting Plaintiff, who was in full body restraints, back to his cell 2201. Upon reaching his cell, Plaintiff declared a "psychological emergency" to Insua, Hoyte and Cotto. Insua, Hoyte and Cotto became angry at Plaintiff, and without need or provocation, maliciously and sadistically forcefully shoved and pushed Plaintiff, then forcefully grabbed Plaintiff by the neck and arms, then forcefully slammed Plaintiff on the ground, then forcefully held Plaintiff face

down on the ground and smothered him with approximately 300 pounds, and forcefully twisted Plaintiff's wrists and elbow. As a result, Plaintiff suffered and continues to suffer from serious physical and psychological injuries, including suffocation to near loss of conscious; ~~severe~~ torturous physical pain; swollen and bruised body; numb wrists; impairment of Plaintiff's physical abilities; a chronic back injury that causes chronic physical pain and that impairs Plaintiff's physical abilities; anxiety; depression; stress; mental anguish; and misery.

Statement of Claim:

10). Plaintiff's 8th Amendment right to be free from cruel and unusual punishment was violated when Insua, Hoyte and Cotto maliciously and sadistically used unnecessary force on Plaintiff on 8/31/08 for the sole purpose to cause harm.

Requested Relief:

Wherefore, Plaintiff requests:

A). An award of nominal, punitive and compensatory damages against Insua, Hoyte and Cotto for violating Plaintiff's 8th Amendment rights and for the physical and psychological injuries suffered by



Plaintiff.

- B). An award of costs, fees and attorney fees.
- C). Any other relief that Plaintiff may be entitled to.

Jury Demand:

- A). Plaintiff demands a trial by jury.

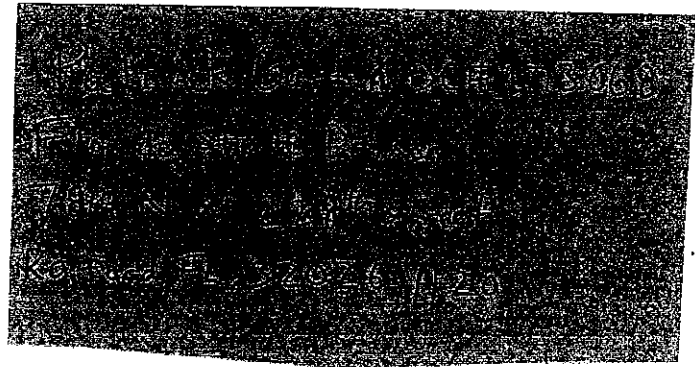
Respectfully Submitted by,

Patrick Gustin  
Patrick Gustin

Under penalty of perjury, I declare that the foregoing statements are true and correct.

Signed this 11<sup>th</sup> day of October 2009.

Patrick Gustin  
Patrick Gustin



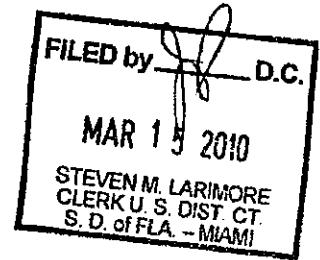
**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA**

**Case No.** 09cv23140 MGC.

**The attached hand-written  
document  
has been scanned and is  
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SUPPLEMENTAL  
PAPER FILE**

United States District Court  
Southern District of Florida  
Miami Division

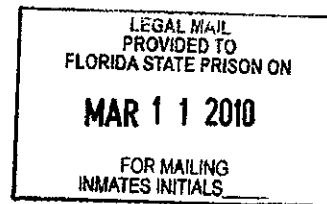
Case No. 0923140-Civ-Cooke  
Magistrate Judge P.A. White



Patrick Gustin  
Plaintiff

VS.

Officer Insua et al.  
Defendants.



Amended Complaint

Plaintiff, Patrick Gustin, Pursuant to Rule 15.1 Local rule of Civil P. and rule 15(a)(1) Federal rule of Civil procedure requests leave to file an amended Complaint changing the date and time only of when the event occurred but keeping defendants location, job description, and actions for the amended time and date of this complaint the same.

1. The plaintiff in his original complaint alleged upon belief that at all times the events alleged to occurred on 8-31-08 at approximately 10:30 am.

2. However, after being served a response<sup>affidavit</sup> from defendants Insua, Hoyte and Cutto claiming an affirmative defense to the allegations contained in paragraphs 9 of the statement of claim and upon careful review of the records, the plaintiff realized that the "use of force" occurred on 7-31-08 at approximately 9:10am at the same location mentioned in the original complaint. See Attached Copy emergency room record. Therefore paragraphs 9 are amended to reflect the date and time of which the event transpired.

3. In addition, being that plaintiff was housed at a mental institution at the time the incident occurred, he was mentally unstable and subject to being placed on heavy psychotropic medication for all various behavior mood, abnormalities such as depression, thought disorder, perception disorder, behavior disorder, anxiety disorder, mood disorder, all which are treated with prozac (Fluoxetine), resperdal, vistran (Hydroxyzine Pamoate) and valproic acid See Attach Exhibits 1-5 informed consent forms

4. Therefore the court should grant<sup>leave</sup> to amend a complaint, *Forman v. Davis*, 371 U.S. 178, 182, 83 S.Ct. 227 (1962); *Interrupal Corp. v. Spunseller*, 889 F.2d 108, 112 (6th Cir.), cert. denied, 494 U.S. 1091 (1990).

Respectfully Submitted by:

Patrick Gustin  
Patrick Gustin DL# L73068

Florida State Prison  
7819 N.W. 22<sup>nd</sup> Street  
Raiford Florida 32026

Under penalty of perjury, I declare that the foregoing  
Statements are true and correct.

Signed this 9<sup>th</sup> day of March 2010.

Patrick Gustin  
Patrick Gustin

Certificate of Service

I hereby certify that a copy of the  
foregoing motion to amend a complaint  
has been furnished by U.S. Mail to the Clerk  
of Court, 400 North Miami Avenue 33128-7716  
Room 8N09 to the defendants or defendants  
attorney on this day of March  
9<sup>th</sup> 2010.

Patrick Gustin  
Patrick Gustin

Ex. 571

**FLORIDA DEPARTMENT OF CORRECTIONS  
INFORMED CONSENT FOR PSYCHOTROPIC MEDICATION**

**MEDICATION:** PROZAC (Fluoxetine HCL) *20 mg*

**PURPOSE:** This medication is used to treat symptoms associated with depressive disorders.

**COMMON SIDE EFFECTS INCLUDE, BUT ARE NOT LIMITED TO:** Insomnia, constipation, diarrhea, headaches, nervousness, anxiety, tremor, dry mouth.

**OTHER POTENTIAL SIGNIFICANT SIDE EFFECTS INCLUDE, BUT ARE NOT LIMITED TO:** Change in appetite, abnormal sweating, seizures, skin rash, increased risk of suicide, change in blood pressure, change in heart rate.

**ALTERNATIVE TREATMENT:** It has been determined, at this time, that this category of medication is the most effective therapy available, and that this class of medication will relieve undesirable symptoms better and more quickly than other treatments alone. Alternative treatments may include other medications, activity therapies, and talk therapies such as counseling or behavior therapy.

**APPROXIMATE LENGTH OF CARE:** The medication usually acts within 2 – 3 weeks, and significant benefit may require regular and long-term usage. The doctor may adjust the dosage during treatment, in most cases, to the minimum dosage that meets the needs of the inmate. The doctor may order laboratory tests from time to time to ensure that the medication is not causing any serious physiological problems.

**NOTIFICATION:** You should understand that you can decide to stop taking this medication at any time by notifying the doctor or any other health care staff orally or in writing. If you decide to stop taking the medication, it will not affect your ability to receive other health care. Notify your physician if there is a possibility that you are pregnant.

**RISK AND HAZARDS:** Avoid alcohol and other nonprescription drugs; avoid driving a vehicle and other activities that require alertness until adjusted to side effects. Abrupt withdrawal or discontinuation of medication may cause medical problems. Antacids containing aluminum or magnesium should not be taken 1 hour before taking this medication and never right after.

I understand that by signing this form I am agreeing to let the Department of Corrections treat me with a psychotropic drug. Departmental staff have given me, and explained information about the nature of this treatment and the reasons I am being treated. I have also been informed about alternative treatments, the risks and hazards associated with this treatment, the possible side effects that I may experience from this treatment, and the length of time that I may be taking this drug. Departmental staff have given me a chance to ask questions about my treatment and have answered all my questions. I understand that I can discuss any other questions I might have about my treatment with the doctor and that a signed copy of this form will be given to me.

Time/Date: 2/16/08

Inmate Signature: [Signature]

Time/Date: 2/14/08

Prescribing Practitioner Signature: [Signature]

Inmate Name Cydonia Brown

DC# 1112184 Race/Sex DCI

Date of Birth 11/12/84

Institution DCI

Name/Title Stamp [Signature]

This form is not to be amended, revised, or altered without approval of the Deputy Director of Health Services Administration  
Distribution: White copy-Health Record  
Canary copy-Inmate

## FLORIDA DEPARTMENT OF CORRECTION

## EMERGENCY ROOM RECORD

Check one: ☒ Inmate/Post-Use-of-Force Exam  
☐ Employee: ☒ Post-Use-of-Force Exam OR ☐ Injury OR ☐ Physical Altercation  
☐ Visitor/Injury

All inmates must receive a complete assessment following a use of force. This includes a visual inspection of the entire body to identify any sign of injury. This exam shall be performed in the medical unit except under unusual circumstance. Injuries shall be documented on the DC4-708 Diagram of Injury. If a physician/CA is not present at the time of the exam, a physician/CA must review this form and sign it on the next working day.

Time of occurrence: 0710

Time of exam: 0950

Description of occurrence:

POST USE OF FORCE

Inmate showered without soap (if postuse of chemical agent)? ☐ Yes ☐ Refused ☒ N/A

Vital Signs: Temperature 97.3 Pulse 78 Respiration 18 Blood Pressure 128 162

Arrived via: ☒ Ambulatory ☐ Stretcher ☐ Wheelchair ☐ Other:

Condition on arrival (check all that apply): ☒ Alert ☒ Oriented x 4 (person, place, time, situation) ☒ Responding to questions verbally  
☐ Other (requires description in assessment summary)  
☐ C/O pain? If checked, where? N/A

Assessment summary:

INMATE SHOWED NO SIGNS AND SYMPTOMS OF INJURY. US WNL.

Physician notified? ☒ No ☐ Yes Name: N/A Time:

Treatment provided? ☒ No ☐ Yes If yes, describe: N/A

Response to Treatment:

N/A

Disposition: ☐ Population ☒ Confinement ☐ Infirmary ☐ Hospital ☐ Rescue ☐ Other (explain):

Discharge Instructions and Education:

REPORT ANY RELATED COMPLAINTS TO HEALTH CARE PROVIDER

Health Care Provider's Signature and Stamp: J. PELL, LON / M. KHELL

Date/Time: 7/31/08 9:50am

Reviewing Physician's Signature and Stamp:

J. DWARES  
A.R.N.P.  
DADE CI

Date/Time: 7/31/08 1040

Name GUSTIN, PATRICK

DC# L73068 Race/Sex B/M

Date of Birth

Institution DADE CI

Inmate Distribution:

White—Health Record  
 Canary—Inspector General  
 Pink—Local Requirements

Employee Distribution:

White—Safety Officer/Designee  
 Canary—Employee Copy  
 Pink—DESTROY

Exhibit 2

**FLORIDA DEPARTMENT OF CORRECTIONS  
INFORMED CONSENT FOR PSYCHOTROPIC MEDICATION**

**MEDICATION:** RISPERDAL (Risperidone)

**PURPOSE:** This medication is used to treat symptoms associated with disorders of thoughts, perceptions, behavior and/or affect.

**COMMON SIDE EFFECTS INCLUDE, BUT ARE NOT LIMITED TO:** Sleepiness, muscle stiffness, abnormal involuntary movements (some of which may be persistent and are called Tardive Dyskinesia), difficulty urinating, lowered blood pressure (which may be experienced as light-headedness), blurred vision, dry mouth, constipation, weight gain, nasal irritation.

**OTHER POTENTIAL, SIGNIFICANT SIDE EFFECTS INCLUDE, BUT ARE NOT LIMITED TO:** Increased risk of seizures, problems with blood cells leading to lower ability to fight infection, increased prolactin levels, and neuroleptic malignant syndrome and increased levels of glucose, cholesterol, and triglycerides.

**ALTERNATIVE TREATMENT:** It has been determined, at this time, that this category of medication is the most effective therapy available and that this class of medication will relieve undesirable symptoms better and more quickly than other treatments. Alternative treatments may include other medications, activity therapies, and talk therapies such as counseling or behavior therapy.

**APPROXIMATE LENGTH OF CARE:** The medication usually acts within a few days (though some may take several weeks or months), and significant benefit may require regular and long-term usage. The doctor may adjust the dosage during treatment, in most cases, to the minimum dosage that meets the needs of the inmate. The doctor may order laboratory tests from time to time to ensure that the medication is not causing any serious physiological problems.

**NOTIFICATION:** You should understand that you can decide to stop taking this medication at any time by notifying the doctor or any other health care staff orally or in writing. If you decide to stop taking the medication, it will not affect your ability to receive other health care. Notify your physician if there is a possibility that you are pregnant.

**RISK AND HAZARDS:** Avoid alcohol and other nonprescription drugs; avoid driving a vehicle and other activities that require alertness until adjusted to side effects. Avoid too much exercise, extreme heat, or other activities that are likely to dehydrate you unless you are able to get enough water. Antacids containing aluminum or magnesium should not be taken 1 hour before taking this medication and never right after.

I understand that by signing this form, I am agreeing to let Department of Corrections staff treat me with a psychotropic drug. Departmental staff have given me, and explained, information about the nature of this treatment and the reason I am being treated. I have also been informed about alternative treatments, the risks and hazards associated with this treatment, the possible side effects that I may experience from this treatment, and the length of time that I may be taking this drug. Departmental staff have given me a chance to ask questions about my treatment and have answered all my questions. I understand that I can discuss any other questions I might have about my treatment with the doctor and that a signed copy of this form will be given to me.

Time/Date: 01/19/08

Inmate Signature: [Signature]

Time/Date: 01/19/08

Prescribing Practitioner Signature: [Signature]

Inmate Name: BRICK, LUTIN

Name/Title Stamp

DC#: 1700000 Race/Sex: W/M

Date of Birth: 01/19/74

Institution: WCE

Dr. L. Burton  
ARMED  
Dude-C.I.

ATTACHMENT / EXHIBIT 2

This form is not to be amended, revised, or altered without approval of the Deputy Director of Health Services Administration  
Distribution: White copy-Health Record  
Canary copy-Inmate



FLORIDA DEPARTMENT OF CORRECTIONS  
INFORMED CONSENT FOR PSYCHOTROPIC MEDICATION

MEDICATION: VISTARIL (Hydroxyzine Pamoate)

PURPOSE: This medication is used to treat symptoms associated with disorders of anxiety.

COMMON SIDE EFFECTS INCLUDE, BUT ARE NOT LIMITED TO: Sleepiness, constipation, nausea, dry mouth, lightheadedness when standing, headaches, hand tremors.

OTHER POTENTIAL SIGNIFICANT SIDE EFFECTS INCLUDE, BUT ARE NOT LIMITED TO: Rash.

ALTERNATIVE TREATMENT: It has been determined, at this time, that this category of medication is the most effective therapy available, and that this class of medication will relieve undesirable symptoms better and more quickly than other treatments alone. Alternative treatments may include other medications, activity therapies, and talk therapies such as counseling or behavior therapy.

APPROXIMATE LENGTH OF CARE: The medication usually acts within 1-2 hours, and significant benefit may require regular and long term usage. The doctor may adjust the dosage during treatment, in most cases, to the minimum dosage that meets the needs of the inmate.

NOTIFICATION: You should understand that you can decide to stop taking this medication at any time by notifying the doctor or any other health care staff, orally or in writing. If you decide to stop taking the medication, it will not affect your ability to receive other health care. Notify your physician if there is a possibility that you are pregnant.

RISK AND HAZARDS: Avoid alcohol and other nonprescription drugs; avoid driving a vehicle and other activities that require alertness until adjusted to side effects. Abrupt withdrawal or discontinuation of medication may cause medical problems. Antacids containing aluminum or magnesium should not be taken 1 hour before taking this medication and never right after.

I understand that by signing this form I am agreeing to let the Department of Corrections treat me with a psychotropic drug. Departmental staff have given me, and explained information about the nature of this treatment and the reasons I am being treated. I have also been informed about alternative treatments, the risks and hazards associated with this treatment, the possible side effects that I may experience from this treatment, and the length of time that I may be taking this drug. Departmental staff have given me a chance to ask questions about my treatment and have answered all my questions. I understand that I can discuss any other questions I might have about my treatment with the doctor and that a signed copy of this form will be given to me.

Time/Date: 4/15/08

Inmate Signature: [Signature]

Time/Date: 4/15/08

Prescribing Practitioner Signature: [Signature]  
Name/Title Stamp

Inmate Name E. ARNOLD POTTS

DC# 12288 Race/Sex B/M

Date of Birth 11/11/47

Institution 65

ATTACHMENT / EXHIBIT 2

This form is not to be amended, revised, or altered without approval  
of the Deputy Director of Health Services Administration  
Distribution: White copy-Health Record  
Canary copy-Inmate

Exhibit 4

FLORIDA DEPARTMENT OF CORRECTIONS  
INFORMED CONSENT FOR PSYCHOTROPIC MEDICATION

MEDICATION: VALPROIC ACID

PURPOSE: This medication is used to treat symptoms associated with disorders of mood.

COMMON SIDE EFFECTS INCLUDE, BUT ARE NOT LIMITED TO: Sleepiness, diarrhea, nausea, headaches, nervousness, cramps, indigestion, lethargy.

OTHER POTENTIAL SIGNIFICANT SIDE EFFECTS INCLUDE, BUT ARE NOT LIMITED TO: Confusion, vomiting, rash, problems with blood cells leading to lowered ability to fight infection, yellow skin/eyes, swelling of the face, hair loss, pancreatitis, swelling of the legs, blurred vision, liver abnormalities.

ALTERNATIVE TREATMENT: It has been determined, at this time, that this category of medication is the most effective therapy available, and that this class of medication will relieve undesirable symptoms better and more quickly than other treatments alone. Alternative treatments may include other medications, activity therapies, and talk therapies such as counseling or behavior therapy.

APPROXIMATE LENGTH OF CARE: The medication usually acts within 1 week, and significant benefit may require regular and long-term usage. The doctor may adjust the dosage during treatment, in most cases, to the minimum dosage that meets the needs of the inmate. The doctor may order laboratory tests from time to time to ensure that the medication is not causing any serious physiological problems.

NOTIFICATION: You should understand that you can decide to stop taking this medication at any time by notifying the doctor or any other health care staff orally or in writing. If you decide to stop taking the medication, it will not affect your ability to receive other health care. Notify your physician if there is a possibility that you are pregnant.

RISK AND HAZARDS: Avoid alcohol and other nonprescription drugs; avoid driving a vehicle and other activities that require alertness until adjusted to side effects. Abrupt withdrawal or discontinuation of medication may cause medical problems.

I understand that by signing this form I am agreeing to let the Department of Corrections treat me with a psychotropic drug. Departmental staff have given me, and explained information about the nature of this treatment and the reasons I am being treated. I have also been informed about alternative treatments, the risks and hazards associated with this treatment, the possible side effects that I may experience from this treatment, and the length of time that I may be taking this drug. Departmental staff have given me a chance to ask questions about my treatment and have answered all my questions. I understand that I can discuss any other questions I might have about my treatment with the doctor and that a signed copy of this form will be given to me.

Time/Date: 11/19/08

Inmate Signature: [Signature]

Time/Date: 11/19/08

Prescribing Practitioner Signature: [Signature]  
Name/Title Stamp

Inmate Name DAVID K. GUSTIN  
DC# 4214 Race/Sex W/M  
Date of Birth 01/15/1968  
Institution FL 100

Dr. L. Burton  
ARNP  
Date of Birth

ATTACHMENT / EXHIBIT 4

This form is not to be amended, revised, or altered without approval  
of the Deputy Director of Health Services Administration  
Distribution: White copy-Health Record  
Canary copy-Inmate

INFORMED CONSENT FOR PSYCHOTROPIC MEDICATION

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**ALTERNATIVE TREATMENT:** It has been determined, at this time, that this category of medication is the most effective therapy available, and that this class of medication will relieve undesirable symptoms better and more quickly than other treatments alone. Alternative treatments may include other medications, activity therapies, and talk therapies such as counseling or behavior therapy.

**APPROXIMATE LENGTH OF CARE:** The medication usually acts within 1 week, and significant benefit may require regular and long-term usage. The doctor may adjust the dosage during treatment, in most cases, to the minimum dosage that meets the needs of the inmate. The doctor may order laboratory tests from time to time to ensure that the medication is not causing any serious physiological problems.

**NOTIFICATION:** You should understand that you can decide to stop taking this medication at any time by notifying the doctor or any other health care staff orally or in writing. If you decide to stop taking the medication, it will not affect your ability to receive other health care. Notify your physician if there is a possibility that you are pregnant.

**RISK AND HAZARDS:** Avoid alcohol and other nonprescription drugs; avoid driving a vehicle and other activities that require alertness until adjusted to side effects. Abrupt withdrawal or discontinuation of medication may cause medical problems.

I understand that by signing this form I am agreeing to let the Department of Corrections treat me with a psychotropic drug. Departmental staff have given me, and explained information about the nature of this treatment and the reasons I am being treated. I have also been informed about alternative treatments, the risks and hazards associated with this treatment, the possible side effects that I may experience from this treatment, and the length of time that I may be taking this drug. Departmental staff have given me a chance to ask questions about my treatment and have answered all my questions. I understand that I can discuss any other questions I might have about my treatment with the doctor and that a signed copy of this form will be given to me.

Time/Date: \_\_\_\_\_

Inmate Signature: \_\_\_\_\_

Time/Date: \_\_\_\_\_

Prescribing Practitioner Signature: \_\_\_\_\_

Name/Title Stamp

Inmate Name Austin Patrick

DC# 19266

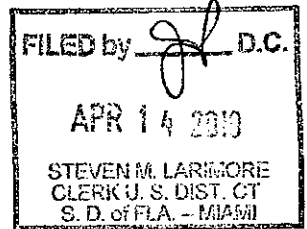
Race/Sex BM

Date of Birth 11/2/88

Institution FL

ATTACHMENT / EXHIBIT 5

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA



**PATRICK GUSTIN,**

Plaintiff,

**CASE NO: 09-23140-CIV-COOKE**

vs.

**OFFICER INSUA, et. al.,**

Defendants.

---

***ANSWER AND AFFIRMATIVE DEFENSES OF OFFICER INSUA  
TO SECOND AMENDED COMPLAINT***

**COMES NOW**, the Defendant, **OFFICER INSUA**, *pro se*, and answers the Second Amended Complaint filed in this action as follows:

1. Defendant **INSUA** admits that he escorted Plaintiff to Plaintiff's cell on July 31, 2008.
2. Defendant **INSUA** herewith files the attached Exhibit "A" entitled "State of Florida Department of Corrections Checklist Use of Force File" which includes photocopies of the handwritten report of Defendant, the Department of Corrections Incident Report, Plaintiff's written statement of his version of the events that occurred, and Florida Department of Corrections Emergency Room Record for both Defendant **INSUA** and for Plaintiff.
3. Defendant **INSUA** denies Plaintiff's allegation contained in Paragraph 9 of the original Complaint in which Plaintiff states that Defendant **INSUA** "became angry at Plaintiff, and without need or provocation, maliciously and sadistically forcefully shoved and pushed Plaintiff, then forcefully grabbed (sic) Plaintiff by the neck and arms, then forcefully slammed Plaintiff on the ground, then forcefully held Plaintiff face down on the ground and smothered him with

approximately 300 pounds, and forcefully twisted Plaintiff's wrists and elbow..."

4. Defendant INSUA states that any and all force used by Defendant INSUA was used in compliance with Florida Department of Corrections procedures.

***AFFIRMATIVE DEFENSES***

1. As and for his defense, Defendant INSUA states that any and all force used by Defendant INSUA on July 31, 2008, was used in compliance with Florida Department of Corrections procedures.

2. Defendant INSUA immediately reported use of force involving Plaintiff to his superiors as required by Florida Department of Corrections procedures whereafter the use of force was investigated, reviewed and determined by Defendant INSUA's superiors to be the proper and correct course of action pursuant to Florida Department of Corrections procedures.

**WHEREFORE**, Defendant INSUA requests that this Court dismiss this action against Defendant INSUA.

**CERTIFICATE OF SERVICE**

***I HEREBY CERTIFY*** that a true and correct copy of the foregoing was mailed to Patrick Gustin, DC#L73068, Florida State Prison, 7819 NW 228 Street, Raiford, FL 32026, this 13<sup>th</sup> day of April, 2010.

  
\_\_\_\_\_  
**OFFICER INSUA**

STATE OF FLORIDA  
DEPARTMENT OF CORRECTIONS- CHECKLIST -  
USE OF FORCE FILEFACILITY: Dade Correctional Institution  
IG UOF NUMBER: \_\_\_\_\_  
INMATE NAME: Gustin, Patrick  
DC NUMBER: L73068DATE OF INCIDENT: 07 / 31 / 2008  
DATE WARDEN RECEIVED: 8 / 3 / 08  
DATE INSPECTOR RECEIVED:       /      /      

## LEFT SIDE OF FOLDER: Warden Inspector

1. Completed Use of Force File Checklist (DC1-813) AS
2. Copy of Use of Force MINS report \_\_\_\_\_
3. Copy of related MINS reports, with IG Case Numbers, if applicable N/A

## RIGHT SIDE OF FOLDER: Warden Inspector

1. Two (2) copies of the completed Report of Force Used (DC6-230), with each continuation page and Staff Supplement (DC6-231), as applicable. N/A
2. Original (typed) Report of Force Used (DC6-230) with signatures AS
3. Original (typed) Report of Force Used Staff Supplement (DC6-231) N/A
4. Original signed work copy (handwritten) of the Report of Force Used AS
5. Original signed work copy (handwritten) of each Staff Supplement N/A
6. Original signed Authorization for Use of Force (DC6-232): Warden, Acting Warden, Duty Warden or Physician, as applicable N/A
7. Medical clearance for use of Chemical Agents/ Electronic Immobilization Devices; insert Risk Assessment Form (DC4-650B) (if available) N/A
8. Employee: Emergency Room Record (DC4-701C) with attached Diagram of Injury (DC4-708) or a Refusal of Health Care Services (DC4-782) AS
9. Inmate: Emergency Room Record (DC4-701C) with attached Diagram of Injury (DC4-708) or a Refusal of Health Care Services (DC4-711A) AS
10. One (1) copy of each Incident Report (DC6-210) of employee witnesses AS
11. Original written statement (DC6-112C) of inmate subject/ witnesses AS
12. One (1) copy of Qualification Card (Firearms, EID, Chemical Agents) N/A
13. Chemical Agent Use: One (1) copy of the completed Chemical Agent Accountability Log (DC6-216) indicating each canister used, with the beginning and ending weight(s) legibly recorded. N/A
14. Chemical Agent Use: Insert written explanation (memorandum) of O.I.C if not present during application of chemical agent. If application was spontaneous, check "N/A" N/A
15. Number of required handheld and/or fixed VHS/ Digital recordings, labeled as required, with the original Chain of Custody Form attached to each or insert written explanation (memorandum) if recording is not available 2
16. Other relevant documentation/ information: \_\_\_\_\_

## IG LOGS ADDITION/ DELETION SECTION:

P= Participant S= Subject W= Witness

Name	Social Security/DC #	Add/ Delete	P/S/W

Signature of Warden

Date

Signature of Institutional Inspector

Date

DC1-813 (Revised 4-05)

08/05/2008  
MINO101

RIDA DEPARTMENT OF CORRECTIONS  
MINS INCIDENT REPORT

PAGE: 1  
TIME 10:41

PREPARED BY: T463JNR REYES, JESSICA NILE  
INCIDENT TYPE: 27E QUELL A DISTURBANCE  
REPORT DATE: 08/05/2008  
INCIDENT DATE: 07/31/2008  
REPORT LOCATION: 463 DADE C.I.  
IG NUMBER:  
IG ASSIGNED:  
INCIDENT LOCATION: 03 COMPOUND  
INJURIES: N STG/STI INVOLVEMENT: N  
USE OF FORCE: Y CONFIDENTIAL: N  
ELECTRONIC RESTRAINING DEVICES: N

INCIDENT NUMBER: 0000252295  
STATUS OF INCIDENT: ENTERED  
REPORT TIME: 10:21  
INCIDENT TIME: 09:10  
REPORT REGION: 4  
UOF NUMBER:  
DATE IG ASSIGNED:  
DAY CODE: 4 SHIFT CODE: 2  
PHYSICAL EVIDENCE RECOVERED: N  
INCIDENT VIDEO TAPED: Y  
CHEMICAL AGENTS USED: (N)

NAME	TITLE	BIRTHDATE	R	S	ID NUMBER
-----					
PARTICIPANT (S)					
INSUA, YOUSCEL	CORRECTIONAL OFFICER	██████	/1981	9 1	37754
SUBJECT (S)					
GUSTIN, PATRICK	ACTIVE INMATE	██████	/1984	2 1	L73068

CONTRABAND RECOVERED	QUANTITY	UNIT OF MEASURE
-----		

DESCRIPTION OF PHYSICAL EVIDENCE:  
NONE.

MEDICAL DEPT. DESCRIPTION OF INJURIES:  
NONE.

DESCRIPTION OF INCIDENT:  
OFFICER Y. INSUA STATES HE WAS ESCORTING SUBJECT INMATE GUSTIN, PATRICK DC# L73068 FROM HIS MENTAL HEALTH APPOINTMENT TO HIS CELL WHEN SUBJECT BECAME LOUD, BOISTEROUS AND DISORDERLY ATTEMPTING TO MOVE AWAY FROM OFFICER INSUA. SUBJECT WAS ORDERED TO CEASE HIS DISORDERLY BEHAVIOR TO NO AVAIL. SUBJECT WAS ORDERED TO CEASE HIS DISORDERLY BEHAVIOR TO WHICH SUBJECT PULLED AWAY FROM OFFICER INSUA. AT THIS POINT FORCE WAS USED.

ACTION TAKEN:  
DUTY WARDEN COLONEL LAWSON AND EAC OFFICER BRANDON WERE NOTIFIED. ALL PARTIES RECEIVED A POST USE OF FORCE PHYSICAL WITH NO INJURIES NOTED.

Use of Force #: \_\_\_\_\_

**STATE OF FLORIDA  
DEPARTMENT OF CORRECTIONS**

**(INSTITUTIONS)  
REPORT OF FORCE USED**

Institution/Office: Dade Correctional Institution Date: 07-31-2008  
Inmate Name: Gustin, Patrick Number: L73068

**I. REPORT OF PERSON(S) USING FORCE**

Statement of Facts (State fully the exact circumstances leading to use of force):

On Thursday, July 31, 2008 at approximately 9:10 A.M., while assigned as Fox trot Confinement Officer, I assisted Officer Juan Cotto escort Inmate Gustin, Patrick DC#L73068 from his Mental Health appointment Officer Cotto and I escorted Inmate Gustin to his cell F2-201. While at the cell door, Inmate Gustin became loud, boisterous, and disorderly by attempting to pull away. I ordered Inmate Gustin to cease his behavior, to no avail. Inmate Gustin continued his disorderly behavior and pulled away. With my left hand on his right bicep and my right hand grasping his shirt of his left shoulder I redirected Inmate Gustin to the ground. Once on the ground all force ceased. Sergeant Nathan Green was notified arrived at the scene. Sergeant Green ordered Inmate to stand up and escorted Inmate Gustin to the bottom tier shower. Inmate Gustin received a post Use of Force physical, and placed in his cell.

Type and amount of force used:

1. With my left hand on his right bicep and my right hand grasping his shirt of his left shoulder I redirected Inmate Gustin to the ground.

Date: 07-31-2008 Signature: Yousaf Insua, C.O. 1  
Officer Using Force Title

**II. WARDEN'S SUMMARY**

I have reviewed the DC6-230, DC6-231, DC4-711C, DC4-708, DC6-210, written statements of inmate(s). Copy of E-form(s) and video tape. The action taken was in compliance with FDC procedures.

Date: 8-7-08 Signature: [Signature]  
Warden

**III. INSTITUTIONAL INSPECTOR'S REVIEW**

Date: \_\_\_\_\_ Signature: \_\_\_\_\_  
Inspector

**IV. INSPECTOR GENERAL'S REVIEW**

☐ Approved ☐ Disapproved

(Reason for Disapproval) -

Date: \_\_\_\_\_ Signature: \_\_\_\_\_  
Inspector General's Office

If additional space is needed for any section, attach supplemental sheets.

Distribution: Listed on back.



REPORT OF FORCE USED

WORKSHEET

INSTITUTION/OFFICE: Dade C I DATE: July 31, 2008  
Inmate Name: Gustin, Patrick Number: L73068

I. REPORT OF PERSON USING FORCE

Statement of facts (state fully the exact circumstances leading to use of force)

On Thursday, July 31, 2008 at approximately 9:10am, while assigned as Detention/Incarceration officer, I assisted officer Juan Cotto escort Inmate Gustin, Patrick ID # L73068 from his Mental Health appointment officer Cotto and I escorted Inmate Gustin to his cell E2201. While at the cell door, Inmate Gustin became loud, belligerent, and disorderly by attempting to pull away. I ordered Inmate Gustin to cease his behavior, to no avail. Inmate Gustin continued his disorderly behavior and pulled away. With my left hand on his right bicep and my right hand grasping his shirt of his left shoulder I redirected Inmate Gustin to the ground. Once on the ground all force ceased. Sergeant Nathan Green was notified arrived at the scene. Sergeant Green ordered Inmate to stand up and escorted Inmate Gustin to the bathroom shower. Inmate Gustin received a post Use of Force Physical, and placed in his cell.

Type and amount of force used:

With my left hand on his right bicep and my right hand grasping his shirt of his left shoulder I redirected Inmate Gustin to the ground.

Yousel Torres  
Printed Name of Officer Using Force

FLORIDA DEPARTMENT OF CORRECTION  
**EMERGENCY ROOM RECORD**

Check one: ☐ Inmate/Post-Use-of-Force Exam  
☒ Employee: ☒ Post-Use-of-Force Exam OR ☐ Injury OR ☐ Physical Altercation  
☐ Visitor/Injury

All inmates must receive a complete assessment following a use of force. This includes a visual inspection of the entire body to identify any sign of injury. This exam shall be performed in the medical unit except under unusual circumstance. Injuries shall be documented on the DCA-708 Diagram of Injury. If a physician/CA is not present at the time of the exam, a physician/CA must review this form and sign it on the next working day.

Time of occurrence: 0910 Time of exam: 1000  
 Description of occurrence: POST USE OF FORCE

Inmate showered without soap (if postuse of chemical agent)? ☐ Yes ☐ Refused ☒ N/A  
 Vital Signs: Temperature 98.1° Pulse 100 Respiration 20 Blood Pressure 134 / 90  
 Arrived via: ☒ Ambulatory ☐ Stretcher ☐ Wheelchair ☐ Other:  
 Condition on arrival (check all that apply): ☒ Alert ☒ Oriented x 4 (person, place, time, situation) ☒ Responding to questions verbally  
☐ Other (requires description in assessment summary)  
☒ C/O pain? If checked, where? MINOR HEADACHE

Assessment summary:  
OFFICER INSUA STATES "APPROXIMATELY 15 MINUTES POST USE OF FORCE, HE EXPERIENCED SHAKINESS, ELEVATED HEART RATE AND TEMPERATURE." NO PHYSICAL SIGNS OF INJURY NOTED. HE CURRENTLY STATES THAT "HE FEELS MUCH BETTER" US WNL.

Physician notified? ☒ No ☐ Yes Name: N/A Time: N/A  
 Treatment provided? ☒ No ☐ Yes If yes, describe: N/A

Response to Treatment: N/A

Disposition: ☐ Population ☐ Confinement ☐ Infirmary ☐ Hospital ☐ Rescue ☐ Other (explain):

Discharge, Instructions and Education:  
Report to HEALTH CARE PROVIDER IF SYMPTOMS REOCCUR OR FOR ANY RELATED COMPLAINTS

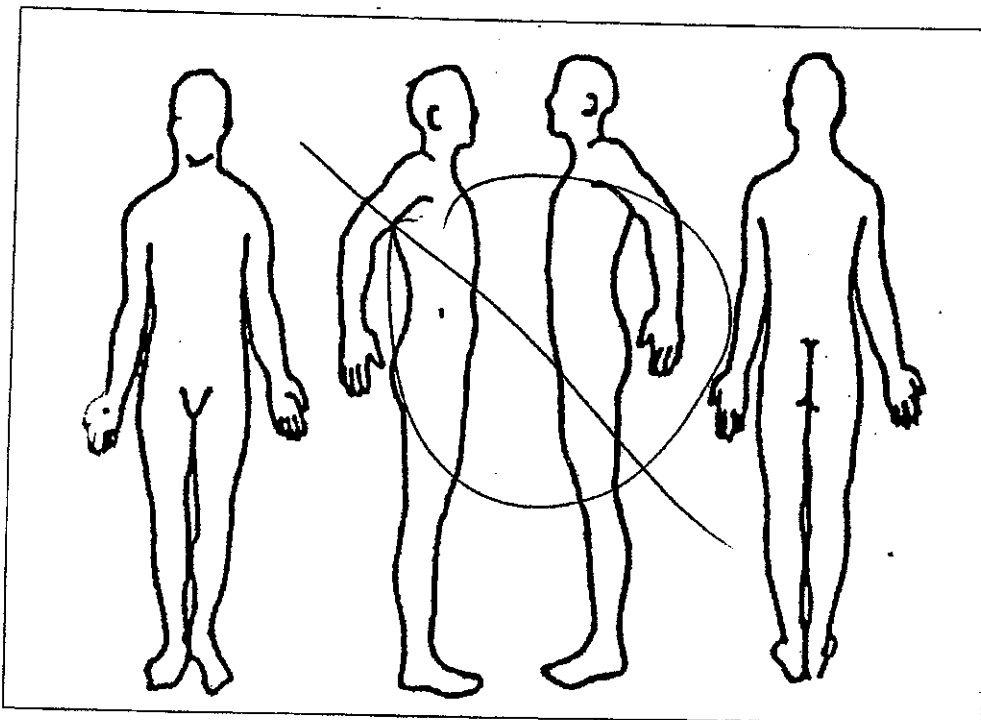
Health Care Provider's Signature and Stamp: H. Kheel LRP / M. Kheel Date/Time: 7/31/08 PDS

Reviewing Physician's Signature and Stamp: [Signature] J. DWARES Date/Time: 7/31/08 10<sup>00</sup>  
 A.R.N.P.  
 DADE CL

Name INSUA, Y  
 DC# \_\_\_\_\_ Race/Sex M  
 Date of Birth \_\_\_\_\_  
 Institution DADE CL

Inmate Distribution: White—Health Record  
 Canary—Inspector General  
 Pink—Local Requirements  
 Employee Distribution: White—Safety Officer/Designee  
 Canary—Employee Copy  
 Pink—DESTROY

FLORIDA DEPARTMENT OF CORRECTIONS  
OFFICE OF HEALTH SERVICES  
DIAGRAM OF INJURY



Date of occurrence 7/3/08

Time of occurrence 10410

☒ No injury identified

Description of injury N/A

A. M. M. L. P. W.  
Staff Signature

Inmate Name INSUR, Y  
DC# \_\_\_\_\_ Race/Sex M/M  
Date of Birth 1/31  
Institution DADE CJ

FLORIDA DEPARTMENT OF CORRECTIONS  
EMERGENCY ROOM RECORD

Check one: ☒ Inmate/Post-Use-of-Force Exam  
☐ Employee: ☒ Post-Use-of-Force Exam OR ☐ Injury OR ☐ Physical Altercation  
☐ Visitor/Injury

All inmates must receive a complete assessment following a use of force. This includes a visual inspection of the entire body to identify any sign of injury. This exam shall be performed in the medical unit except under unusual circumstances. Injuries shall be documented on the DCA-708 Diagram of Injury. If a physician/CA is not present at the time of the exam, a physician/CA must review this form and sign it on the next working day.

Time of occurrence: 0710 Time of exam: 0750

Description of occurrence: POST USE OF FORCE

Inmate showered without soap (if postuse of chemical agent)? ☐ Yes ☐ Refused ☒ N/A

Vital Signs: Temperature 97.3 Pulse 78 Respiration 18 Blood Pressure 138 162

Arrived via: ☒ Ambulatory ☐ Stretcher ☐ Wheelchair ☐ Other:

Condition on arrival (check all that apply): ☒ Alert ☒ Oriented x 4 (person, place, time, situation) ☒ Responding to questions verbally  
☐ Other (requires description in assessment summary)  
☐ C/O pain? If checked, where? N/A

Assessment summary:

INMATE SHOWED NO SIGNS AND SYMPTOMS OF INJURY. US WNL.

Physician notified? ☒ No ☐ Yes Name: N/A Time: \_\_\_\_\_

Treatment provided? ☒ No ☐ Yes If yes, describe: N/A

Response to Treatment: N/A

Disposition: ☐ Population ☒ Confinement ☐ Infirmary ☐ Hospital ☐ Rescue ☐ Other (explain):

Discharge Instructions and Education:

REPORT ANY RELATED COMPLAINTS TO HEALTH CARE PROVIDER

Health Care Provider's Signature and Stamp: J. P. KELLEY / M. KHEL Date/Time: 2/31/08 9:50AM

Reviewing Physician's Signature and Stamp: [Signature] Date/Time: 7/21/08 10:40

Name GUSTINE, PATRICK

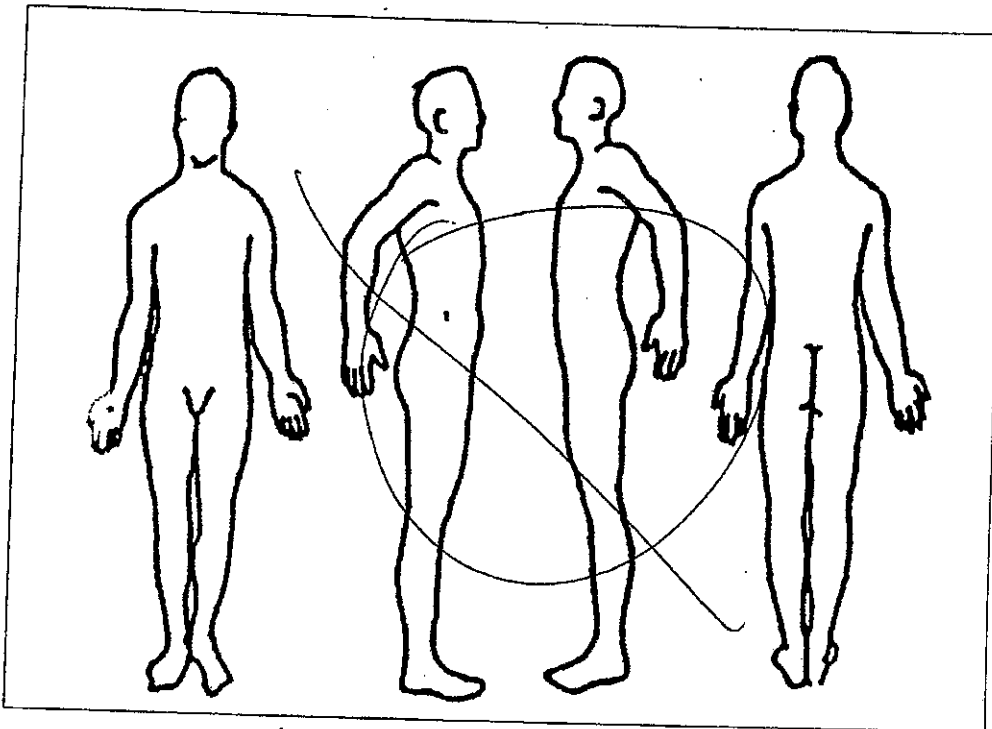
DC# 673068 Race/Sex B/M

Date of Birth \_\_\_\_\_

Institution DADE CI

Employee Distribution: White—Health Record  
 Canary—Inspector General  
 Pink—Local Requirements  
 White—Safety Officer/Designee  
 Canary—Employee Copy  
 Pink—DESTROY

FLORIDA DEPARTMENT OF CORRECTIONS  
OFFICE OF HEALTH SERVICES  
DIAGRAM OF INJURY



Date of occurrence 7/31/08

Time of occurrence 0910

☒ No injury identified

Description of injury N/A

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

J. Keith Low / M. K. HEN  
Staff Signature

Inmate Name BUSTON, PATRICK  
DC# 173268 Race/Sex B  
Date of Birth \_\_\_\_\_  
Institution DADE CJ

## DEPARTMENT OF CORRECTIONS

## INCIDENT REPORT

Reporting Institution: Dade Correctional Institution Incident Report Number: 08-~~9~~003  
 Reporting Employee: Youscel Insua C.O. 1 PREA Number: \_\_\_\_\_  
 Employee ID Number: 5734 Date of incident: 07/31/2008  
 Person(s) Involved: Inmate Gustin, Patrick DC#L73068 Time of incident: 9:10 A.M.  
 \_\_\_\_\_ Witness(es): Jonathan Hoyte, C.O. 1  
 \_\_\_\_\_ Juan Cotto, C.O.1

## DETAILS OF INCIDENT:

On Thursday, July 31, 2008 at approximately 9:10 A.M., while assigned as Foxtro/Confinement Officer, I assisted Officer Juan Cotto escort Inmate Gustin, Patrick DC#L73068 from his Mental Health appointment Officer Cotto and I escorted Inmate Gustin to his cell F2-201. While at the cell door, Inmate Gustin became loud, boisterous, and disorderly by attempting to pull away. I ordered Inmate Gustin to cease his behavior, to no avail. Inmate Gustin continued his disorderly behavior and pulled away. With my left hand on his right bicep and my right hand grasping his shirt of his left shoulder I redirected Inmate Gustin to the ground. Once on the ground all force ceased. Sergeant Nathan Green was notified arrived at the scene. Sergeant Green ordered Inmate to stand up and escorted Inmate Gustin to the bottom tier shower. Inmate Gustin received a post Use of Force physical, and placed in his cell.

Youscel Insua, C.O. 1 07/31/2008  
 Reporting Employee Date

Shift Supervisor

COMMENT: MINS reportable incident, this was a spontaneous physical Use of Force in accordance with policy and procedure to overcome physical resistance to a lawful command. All staff involved received post use of force physical. Duty Warden, Colonel Jessie Lawson was notified as well as EAC Duty Officer Brandon was notified who he issued Use of Force #EAC-2008-07-9618. Inmate will receive Disciplinary Report for his actions. All documentation is forwarded to C.O. Chief for review.

Francisco J. Urbina, C.O. Captain 07/31/2008  
 Shift Supervisor Date

REVIEW:

Proper Procedures Followed

Jessie Lawson, C.O. Colonel 08-01-08  
 Correctional Officer Chief Date

REVIEW:

A Review of the use of Force was conducted and appears to be in compliance with the use of Force Procedure.  
CC: Inspector  
Classification  
Regional Office

Warden 7/31/08  
 Date

## DEPARTMENT OF CORRECTIONS

## INCIDENT REPORT

Reporting Institution: Dade Correctional Institution Incident Report Number: 08-08-0032  
 Reporting Employee: Nathan Green C.O. Sergeant PREA Number: \_\_\_\_\_  
 Employee ID Number: 8147 Date of incident: 07/31/2008  
 Person(s) Involved: Inmate Gustin, Patrick DC#L73068 Time of incident: 9:10 A.M.  
 \_\_\_\_\_ Witness(es): Jonathan Hoyte, C.O. 1  
 \_\_\_\_\_ Juan Cotto, C.O. 1

## DETAILS OF INCIDENT:

On Thursday, July 31, 2008 at approximately 9:10 A.M., while assigned as Foxtro/Confinement Supervisor, I was notified to arrived at the scene in wing two of confinement. I ordered Inmate Gustin, Patrick DC#L73068 to stand up and I escorted Inmate Gustin to the bottom tier shower. Inmate Gustin received a post Use of Force physical, and placed in his cell.

Nathan Green, C.O. Sergeant 07/31/2008  
 Reporting Employee Date

## Shift Supervisor

COMMENT: Sergeant N. Green was present though was not involved in Use of Force. MINS reportable incident, this was a spontaneous physical Use of Force in accordance with policy and procedure to overcome physical resistance to a lawful command. All staff involved received post use of force physical. Duty Warden, Colonel Jessie Lawson was notified as well as EAC Duty Officer Brandon was notified who he issued Use of Force #EAC-2008-07-9618. Inmate will receive Disciplinary Report for his actions. All documentation is forwarded to C.O. Chief for review.

Francisco J. Urbina, C.O. Captain 07/31/2008  
 Shift Supervisor Date

## REVIEW:

Refer to Report 08-08-003

Jessie Lawson, C.O. Colonel  
 Correctional Officer Chief

08/01/08  
 Date

## REVIEW:

Refer to Report # 08-08-003  
C.C. Inspector  
CLASSIFICATION  
Regional Office

Warden

8-4-08  
 Date

## DEPARTMENT OF CORRECTIONS

## INCIDENT REPORT

Reporting Institution: <u>Dade Correctional Institution</u>	Incident Report Number: <u>08-08-0035</u>
Reporting Employee: <u>Juan Cotto, C.O.1</u>	PREA Number: _____
Employee ID Number: <u>46269</u>	Date of incident: <u>07/31/2008</u>
Person(s) Involved: <u>Inmate Gustin, Patrick DC#L73068</u>	Time of incident: <u>9:10 A.M.</u>
<u>Youscel Insua, C.O.1</u>	Witness(es): <u>Jonathan Hoyte, C.O.1</u>

DETAILS OF INCIDENT: On, Thursday, July 31, 2008, at approximately 9:10 A.M., while assigned as Foxtrot Confinement Officer, I was escorting Inmate Gustin, Patrick DC#L73068 with Officer Youscel Insua. While escorting Inmate Gustin he was being disorderly by talking in loud boisterous disobeying orders to cease his behavior. When we were present in front of cell F2-201 I release my escort position in order to open the cell door. At this time Inmate Gustin became disorderly pulling away from Officer Insua disobeying his order to cease his behavior causing Officer Insua to place him on the ground. Once Inmate Gustin was on the ground all force ceased. Sergeant Nathan Green was notified, arrived at the scene ordered the Inmate to stand up and escorted him to the bottom tier shower.

J. Cotto  
Juan Cotto, C.O. 1  
 Reporting Employee

7-31-08  
07/31/2008  
 Date

Shift Supervisor

COMMENT: Officer J. Cotto was present during the Use of Force, though was not involved. MINS reportable incident, this was a spontaneous physical Use of Force in accordance with policy and procedure to overcome physical resistance to a lawful command. All staff involved received post use of force physical. Duty Warden, Colonel Jessie Lawson was notified as well as EAC Duty Officer Brandon was notified who he issued Use of Force #EAC-2008-07-9618. Inmate will receive Disciplinary Report for his actions. All documentation is forwarded to C.O. Chief for review.

Francisco J. Urbina, C.O. Captain  
 Shift Supervisor

07/31/2008  
 Date

REVIEW

Ref to Report # 08-08-003

[Signature]  
 Correctional Officer Chief

8-04-08  
 Date

REVIEW:

Ref to Report # 08-08-003  
C.O. Inspector  
Classification  
Regulation Office

[Signature]  
 Warden

8/1/08  
 Date



## DEPARTMENT OF CORRECTIONS

## INCIDENT REPORT

Reporting Institution: <u>Dade Correctional Institution</u>	Incident Report Number: <u>08-08-0030</u>
Reporting Employee: <u>Jonathan Hoyte, C.O.1</u>	PREA Number: _____
Employee ID Number: <u>40111</u>	Date of incident: <u>07/31/2008</u>
Person(s) Involved: <u>Inmate Gustin, Patrick DC#L73068</u>	Time of incident: <u>9:10 A.M.</u>
<u>Youscel Insua, C.O.1</u>	Witness(es): <u>Juan Cotto, C.O.1</u>

DETAILS OF INCIDENT: On, Thursday, July 31, 2008, at approximately 9:10 A.M., while assigned as medical transport officer, I was present in Foxtrot Confinement Wing two conducting Inmate escort when I observed Inmate Gustin, Patrick DC#L73068 become disorderly and pulled away from Officer Youscel Insua. Officer Insua ordered Inmate to cease his behavior, to no avail. Inmate Gustin continued his disorderly behavior by pulling away and Officer Insua redirected Inmate Gustin to the ground. Once on the ground all force ceased. Inmate Gustin was assisted to his feet and escorted to the bottom tier shower. Housing Supervisor was notified.

Jonathan Hoyte, C.O. 1  
Reporting Employee

07/31/2008  
Date

Shift Supervisor

COMMENT: Officer J. Hoyte was present though was not involved in Use of Force. MINS reportable incident, this was a spontaneous physical Use of Force in accordance with policy and procedure to overcome physical resistance to a lawful command. All staff involved received post use of force physical. Duty Warden, Colonel Jessie Lawson was notified as well as EAC Duty Officer Brandon was notified who he issued Use of Force #EAC-2008-07-9618. Inmate will receive Disciplinary Report for his actions. All documentation is forwarded to C.O. Chief for review.

Francisco J. Urbina, C.O. Captain  
Shift Supervisor

07/31/2008  
Date

REVIEW:

Refer to Report 08-08-003

Correctional Officer Chief

08-01-08  
Date

REVIEW:

Refer to Report # 08-08-003  
CC: Inspector  
CLASSIFICATION  
Region office

Warden

8/1/08  
Date

## DEPARTMENT OF CORRECTIONS

## INCIDENT REPORT

Reporting Institution: <u>Dade Correctional Institution</u>	Incident Report Number: <u>08-08-0023d</u>
Reporting Employee: <u>Juan Cotto, C.O. I</u>	PREA Number: _____
Employee ID Number: <u>46269</u>	Date of incident: <u>07/31/2008</u>
Person(s) Involved: <u>Inmate Gustin, Patrick DC#L73068</u>	Time of incident: <u>09:08 A.M.</u>
<u>Francisco J. Urbina, C.O. Captain</u>	Witness(es): <u>Nathan Green, C.O. Sergeant</u>

DETAILS OF INCIDENT: On Thursday, July 31, 2008, at approximately 9:08 A.M., while assigned as Foxtrot/Confinement Officer, I was called to perform secondary duties as Camera one (01) operator. I retrieved the video camera from Foxtrot Confinement, seal #0005989 was broken and was re-placed with seal #0005985 after use and video was complete. I began video taping at approximately 9:25 A.M. of Inmate Gustin, Patrick DC#L73068 spontaneous Physical Use of Force. I concluded video taping at 9:54 A.M. This report is written under the direction of the Shift Supervisor.

Juan Cotto 7-31-08  
 Juan Cotto C.O. I 07/31/2008  
 Reporting Employee Date

Shift Supervisor

COMMENT:

This was a spontaneous physical Use of force; the hand held camera was used in accordance with policy and procedure; for more information, refer to use of force #EAC-2008-07-9618.

Francisco J. Urbina 07/31/2008  
 Francisco J. Urbina C.O. Captain  
 Shift Supervisor Date

REVIEW: Refer to Report # 08-08-003

Correctional Officer Chief

Date

REVIEW:

Refer to Report # 08-08-003

C.C. Inspector

Classification

Region office

Warden

Date

see next page 14

State of Florida	<b>Witness Statement</b>	Department of Corrections
	Log # _____	
<b>I. Identifying Inmate Information</b>		
DC # <u>L73068</u>	Inmate Name <u>Gustin, Patrick</u>	
Violation Code and Short Title _____		
Date Report Written _____		
<b>II. Witness</b>		
<input type="checkbox"/> Staff Member: Name and Position _____		
<input type="checkbox"/> Other Individual: Name _____		
<input type="checkbox"/> Inmate: DC # _____ Name _____		
<b>III. Voluntary Refusal</b>		
The witness voluntarily refused to provide a written statement to the Investigating Officer and the following signature(s) attests to that fact:		
Witness Signature _____		Date _____
Signature of Investigating Officer _____		Date _____
<b>IV. Statement</b>		
<p>Today on July 31, 2008 Thursday morning Alpha 8 to 4 shift I made mention of a <del>psych</del> psychological emergency to Mr. Piccolo behavior specialist. As a matter of fact I pleaded with him about this several times. I also explained to him that I was depressed, not sleeping normal hours but 3 hrs a day, and couldn't eat my meals. Furthermore I told the behavior <del>the</del> specialist that the medication I'm on Prozac just made me more depressed and angry. Mr. Piccolo simply told me that the officers won't listen to him if he brings that to their attention. He then dismissed the meeting while I still pleaded with him. Again I brought this to the attention officers Cotto, Hoyte, and Insiquian front of Mr. Piccolo who viewed the entire incident from his desk on the wing F2. They simply disregarded this and forcefully grabbed me by the arms walking me upstairs to my cell. I was in immediate need of help but they wouldn't listen to me as they struggled with me then finally wrestling me down to ground on the drapes in front my cell F2201. I was in hands with the entire time and pose no threat. Mr. Insiquian used his entire body weight squeezing the life out of me using his knees, twisting my elbow, and binding</p>		
Witness Signature <u>Patrick Gustin</u>		Date <u>7/31/08</u>
Signature of Investigating Officer <u>[Signature]</u>		Date <u>7/31/08</u>

Page 2

my wrists. As a result I suffered a bruised right elbow and my wrists feels numb from poor circulation. I tryed to explained this To Sgt. Green while screaming in agonizing pain and breathing hard. My roommate Jay O. Mann Det# L20665 witnessed this but they told him to back away from the door. After almost losing my life I was then placed in the showers and spoke to captain Albina who said he would have me write a incident report. I was then escorted to medical for a physical. I again explained to the nurses where I had pain. The entire scenario took in front of the cameras on the wing and other inmates viewed this as well. Let this conclude everything. thank you. i was treated injustice because my rights of declarance of emergency.

DEPARTMENT OF CORRECTIONS  
OFFICE OF THE INSPECTOR GENERAL  
CHAIN OF CUSTODY

Case: \_\_\_\_\_ Inspector: \_\_\_\_\_

Offense: \_\_\_\_\_ Subject: Gustin, Patrick DC#L73068

Evidence Description: Hand Held Use of Force Video Tape

Recovered by: Juan Cotto C.O. I *J Cotto* Date: 07/31/2008 Time: 09:08 A.M. a.m./p.m.

Place Evidence Found: Foxtrot Confinement Video Camera Box

Recovered: Juan Cotto, C.O. I *J Cotto* Date: 07/31/2008

To: Francisco J. Urbina, C.O. Captain *F J Urbina* Time: 09:54 A.M. a.m./p.m.

From: Francisco J. Urbina, C.O. Captain *F J Urbina* Date: 8/1/08

To: Jessie Lawson, C.O. Colonel *Jessie Lawson* Time: 500 pm a.m./p.m.

From: Jessie Lawson, C.O. Colonel *Jessie Lawson* Date: 8-2-08

To: David Harris, Warden *CHURCHWELL* Time: 1031 a.m./p.m.

From: \_\_\_\_\_ Date: \_\_\_\_\_

To: \_\_\_\_\_ Time: \_\_\_\_\_ a.m./p.m.

From: \_\_\_\_\_ Date: \_\_\_\_\_

To: \_\_\_\_\_ Time: \_\_\_\_\_ a.m./p.m.

From: \_\_\_\_\_ Date: \_\_\_\_\_

To: \_\_\_\_\_ Time: \_\_\_\_\_ a.m./p.m.

DEPARTMENT OF CORRECTIONS  
OFFICE OF THE INSPECTOR GENERAL  
CHAIN OF CUSTODY

Case: \_\_\_\_\_ Inspector: \_\_\_\_\_

Offense: \_\_\_\_\_ Subject: Gustin, Patrick DC#L73068

Evidence Description: Fixed Confinement Video Tape for 07/31/2008 @ 1230 A.M. thru 07/31/2008  
@ 1244 P.M. Use of Force

Recovered by: Francisco J. Urbina, C.O. Captain Date: 07/31/2008 Time: 1244 a.m./p.m.

Place Evidence Found: Colonel's Office Video (Fixed)

Recovered by: F.J. Urbina, C.O. Captain Date: 8/31/08

To: J. Lawson, C.O. Colonel Time: 500 a.m./p.m.

From: J. Lawson, C.O. Colonel Date: 8/2/08

To: D. Harris, Warden Time: 1030 am a.m./p.m.

From: \_\_\_\_\_ Date: \_\_\_\_\_

To: \_\_\_\_\_ Time: \_\_\_\_\_ a.m./p.m.

From: \_\_\_\_\_ Date: \_\_\_\_\_

To: \_\_\_\_\_ Time: \_\_\_\_\_ a.m./p.m.

From: \_\_\_\_\_ Date: \_\_\_\_\_

To: \_\_\_\_\_ Time: \_\_\_\_\_ a.m./p.m.

From: \_\_\_\_\_ Date: \_\_\_\_\_

To: \_\_\_\_\_ Time: \_\_\_\_\_ a.m./p.m.

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA

CASE NO. 09-23140-CIV-COOKE  
MAGISTRATE JUDGE P.A. WHITE

PATRICK GUSIN,	:	
Plaintiff,	:	
v.	:	<u>REPORT THAT CASE IS</u>
OFFICER INSUA, et al	:	<u>READY FOR TRIAL</u>
Defendants.	:	

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This prisoner civil rights case was referred to the undersigned for preliminary proceedings pursuant to 28 U.S.C. §636(b)(1).

The case is now at issue. Answers have been filed by Defendant Officers Insua, Hoyte, and Cotto, and the defendants appear to be representing themselves, without benefit of counsel. No dispositive motions have been filed, and the dates entered in the pre-trial scheduling order, including extended dates have passed.

It is therefore respectfully recommended that this case be placed upon the trial calendar of the District Judge.

DONE AND ORDERED at Miami, Florida, this 26<sup>th</sup> day of August, 2010.



UNITED STATES MAGISTRATE JUDGE

cc: Patrick Gusin, Pro Se  
DCL73068  
Florida State Prison  
Address of record

Defendants: Officer Insua  
Officer Hoyte  
Officer Cotto  
Dade Correctional Institution  
Addresses of record